



Water Quality NewsFlash

Published by California Department of Transportation, Division of Environmental Analysis, Office of Water Quality

October 11, 2004

Number 04-40

Ocean Plan – Public Hearing – The State Water Resources Control Board heard testimony Oct. 6 on proposed revisions to two parts of the California Ocean Plan (see *NewsFlash* 04-32). The OP establishes water quality standards for ocean waters in the same manner that the Basin Plans set standards for inland waters. On the issue of appropriate bacteria standards, the Board staff proposed changing the standards to conform to U.S. EPA requirements by adding enterococcus. One part of the standards refers to the evaluation of a *single sample maximum* (SSM) bacteria concentration value. The Board staff proposed using the SSM as a trigger for additional monitoring rather than as an enforceable standard. Some Board members were uncomfortable with this approach and several Regional Boards submitted comments proposing that the SSM be used as an absolute standard. A representative for wastewater agencies supported using the single sample maximum as a trigger rather than as a limit, as well as suggesting an adaptive monitoring approach which would allow analysis of fewer bacteria types over time. Having a single sample maximum as a standard rather than a trigger could result in more beaches being listed as impaired and therefore requiring TMDLs to decrease bacteria loadings.

The second proposed amendment pertained to the statistical approach used to determine if pollutants in a wastewater discharge have a “reasonable potential” to cause an exceedance of water quality standards. All pollutants showing “reasonable potential” are required to have effluent limits in the permit. One speaker suggested that that the proposed “reasonable potential” procedure should not be applied to stormwater and that stormwater needed its own approach. (Note: stormwater discharges are not currently required to have numeric effluent limits, however, TMDLs and associated implementation plans may specify numeric limits for stormwater in the form of mass limitations (e.g., kg/day) or concentration limitations (mg/l).) This second amendment will be sent out for peer review, rather than being proposed for approval at the next Board meeting. In addition, the first amendment, on bacteria standards, was also dropped from the agenda for the next meeting because of concerns raised by Board members. In the absence of state action, the U.S. EPA will likely promulgate new bacteria standards. 2004 OP Amendments: <http://www.swrcb.ca.gov/plnspols/oplans/> (page down).

Citizen Suits – Possible abuse reviewed at Congressional hearing – The federal Clean Water Act has a strong citizen suit provision (Section 505). In the absence of action by state or federal regulators, citizens may sue dischargers to enforce permits and other provisions of the Act. In addition, citizens can sue the regulators themselves for inadequately implementing requirements of the Act. A recent hearing of the House Subcommittee on Water Resources and Environment heard testimony of alleged abuse of the citizen suit provisions. The witnesses, all from California, testified that some suits “provide little or no environmental benefits, and direct limited community funding toward costly litigation or settlements rather than water quality improvements...” It is not clear if any proposed changes to the Act will result from this hearing. See: <http://www.house.gov/transportation/> - click on the September 30 link under the Press Gallery Heading on the right side of the web page.

WQ NewsFlash is a weekly update of storm water and related news for the Department. *Verify information before taking action on these bulletins.* Contact Betty Sanchez, Betty_Sanchez@dot.ca.gov (916) 653-2115, or Fred Krieger, (510) 843-7889, fkrieger@msn.com with questions or to be added or deleted from e-mail list. Posted online at: <http://www.dot.ca.gov/hq/env/stormwater/publicat/newsflash/index.htm>